

FIRST REGULAR SESSION

SENATE BILL NO. 297

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

Read 1st time February 3, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

0815S.01I

AN ACT

To repeal section 168.281, RSMo, and to enact in lieu thereof one new section relating to non-certified employees of the metropolitan school district.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 168.281, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.281, to read as follows:

168.281. 1. After completion of satisfactory probationary service, appointments of employees shall become permanent subject to removal for any one or more causes herein described as well as to the right of the board to terminate services of all who attain the age of compulsory retirement fixed by the retirement system.

2. [(1)] No employee whose appointment has become permanent may be removed, aside from compulsory retirement, except for one or more of the following causes: Immorality, **conviction of a crime under any state or federal criminal statute**, inefficiency **or incompetency** in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or that his physical or mental condition is such that it incapacitates him from properly performing his duties or from properly associating with children[, and then only after the personnel director has given written notice to the employee, by registered mail with return receipt of his suspension and proposed discharge. The registered letter is to notify the employee

- (a) Of the charges on which the suspension and proposed discharge is based;
- (b) Of the date, time, and place of the hearing of the charges by the personnel committee;
- (c) Of the employee's right to be present at the hearing and to have counsel or other representative of his choice;

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(d) Of his right to testify and to offer testimony of witnesses as well as other evidence sustaining his defense, and to cross-examine adverse witnesses and to generally conduct a defense;

(e) And of the necessity, in order for him to avail himself of the aforesaid opportunity to defend himself against the charges, that he notify the personnel director in writing, at least three days before the date of the hearing, of his intention to offer the defense.

(2) The hearing of the committee is to be held not less than ten nor more than fifteen days after the mailing date of the notice of hearing to the employee, except by mutual agreement of the committee and the employee. Failure of the employee to give the three days' notice in writing of his election to defend, or having given the notice, failure of the employee to appear at the hearing, shall each be considered by the committee as an admission of the truth of the charges and the committee may rule accordingly. The committee may, in its discretion, to avoid undue hardship, and upon a sufficient showing by the employee of valid and cogent reasons for his failure to notify the committee of his election to defend, or of his subsequent failure to appear at the hearing, reset the hearing in the same manner as before.

(3) Upon conducting the hearing of the charges, or if no defense is offered, upon considering the charges, the personnel committee by majority vote shall make its decision as soon as practicable and shall immediately thereafter notify the employee of its decision by registered mail. The committee may rule

(a) That the employee's suspension was justified and that he is discharged with loss of pay as of the date of his suspension;

(b) That the suspension was unjustified and no grounds calling for his discharge have been proven and that the employee shall immediately be restored to his former position without any loss of pay;

(c) That the proven charges are of such a nature that they can be removed or remedied by transferring the employee to a different position, grade, classification, school or building in which case the employee shall lose no pay during his suspension prior to the committee's decision;

(d) Or the committee may make any ruling, less severe than that of discharge, which the committee may deem meet and just under the circumstances including suspension with the loss of pay].

3. Notwithstanding any other provision of law, any permanent employee subject to removal may be removed by the superintendent or the superintendent's delegates, who shall provide the following process for considering any information on behalf of the affected employee:

(1) Providing a written statement of reasons for the action prior to removal;

(2) Allowing the employee to respond by testimony or affidavit within ten

days of being provided with the written statement;

(3) Consideration of the employee's response; and

(4) Providing the employee with a written decision containing a statement of reasons for the employee's removal.

The decision of the [personnel committee] **superintendent or superintendent's designees** shall be final; provided, however, that upon the **written** request of the employee affected, **submitted within thirty calendar days of the mailing of the superintendent's statement of reasons, a hearing officer designated by the board** shall [review the record of the proceedings before the personnel committee and may, in its discretion,] grant the employee a hearing [before the board]. **In the event of a hearing, the hearing officer will consider the record before the superintendent and any other statement or information provided by the employee, the superintendent, or the superintendent's designee.** Upon **conclusion of the** hearing the [board] **hearing officer** may affirm, rescind or modify the decision of the [committee] **superintendent or the superintendent's designees** and make any other orders in connection therewith that are appropriate under the circumstances.

[3. No employee whose appointment has become permanent shall be suspended without pay, nor be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the employee because of inefficiency in line of duty, and any employee whose salary is reduced or who is demoted may waive the presentment of charges against him and a hearing thereon by the committee.]

4. Nothing herein shall in any way restrict or limit the powers of the board of education to make reductions in the number of employees because of insufficient funds or decrease in pupil enrollment or lack of work.

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